S.B.Criminal Revision Petition No.1154/2007

Kusumlata Dadhich
v.
State of Rajasthan

Date of Order :: 26th October, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sandeep Mehta, for the petitioner.
Mrs. Vidhya Bohra, Public Prosecutor.

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This petition under Section 397 read with Section 401 Cr.P.C. has been filed inasmuch as the petitioner, a practicing lawyer is aggrieved by the order dated 12.9.2007 passed by learned Additional Sessions Judge (Women Atrocities Cases), Bhilwara framing charges against her for the offences under Sections 366, 368, 384 and 120-B IPC.

The facts relevant and the case of the prosecution as is evident from the report submitted as per provisions of Section 173 Cr.P.C. are that on 13.6.2005 a criminal case was lodged at police station Jahajpur at the instance of one Shri Govind Prasad for abduction of his daughter Monika aged 21 years by Sanif @ Munna, accordingly, investigation commenced for the offences under Sections 366 and 379 IPC. During the course of investigation Monika was recovered and the police also recovered certain documents relating to her marriage with Sanif @ Munna

and also relating to conversion of her religion. Statements of Monika under Section 164 Cr.P.C. were also recorded wherein she stated that Sanif @ Munna was known to her and on 12.6.2005 she proceeded with Sanif for Bhilwara. She also alleged that Sanif concealed the fact that he was already married and his wife was pregnant. Sanif instead of taking her to Bhilwara took her to Ahmedabad and kept in a room at a hotel. She also disclosed that one lawyer namely Amjad and Sanif forced her to change religion and also to change her name as Tanisha Shah. She was forcibly taken to a mosque to marry with Sanif and then she was taken to Bhilwara for getting her statements recorded. She then was taken to Udaipur to get her statements recorded in court and for that purpose the present petitioner came to her.

Learned Additional Sessions Judge (Women Atrocities Cases), Bhilwara by order impugned framed charges against the accused persons and also framed charge against the petitioner for the offences under Sections 366, 368, 384 and 120B IPC.

While challenging the order impugned, contention of counsel for the petitioner is that no charge as framed by learned trial court by order impugned could have been made out against the petitioner on basis of the police report submitted.

I have examined the entire police report and also the documents annexed thereto. The only reference in entire police report against the petitioner is that she accompanied Monika for recording statements before the court. It is pertinent to note that reference of the petitioner is not with regard to the statements recorded under Section 164 Cr.P.C. at Bhilwara but for some other statement and those are not at all available on record. As a matter of fact the role of the petitioner that appears from the police report is only like a lawyer and even remotely she cannot be linked with the crime alleged. While considering the matter for framing charge, the police report and the documents sent alongwith the report are to be considered and if on basis of unrebutted evidence of the prosecution the accused cannot be convicted then he is to be discharged. In the instant matter also, even if, the entire prosecution allegations contained in the police papers are taken to be true, they failed to make out any offence against the petitioner. It is true that Monika has said that petitioner Kusumlata came to her to get her statements recorded but mere such reference relating to a lawyer does not constitute any offence for which the petitioner is charged.

Thus, this revision petition deserves acceptance and the same, therefore, is allowed. The order impugned dated 12.9.2007 passed by learned

Additional Sessions Judge (Women Atrocities Cases), Bhilwara in Sessions Case No.19/2006 is quashed to the extent it relates to framing of charge against the petitioner for the offences under Sections 366, 368, 384 and 120-B IPC.

(GOVIND MATHUR),J.

Kkm/ps.